

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
Implementation of Section 621(a)(1) of)	
The Cable Communications Policy Act of 1984)	MB Docket No. 05-311
As amended by the Cable Television Consumer)	
Protection and Competition Act of 1992)	

**COMMENTS OF MIAMI-DADE COUNTY, FLORIDA
IN RESPONSE TO THE FURTHER NOTICE
OF PROPOSED RULEMAKING**

These Comments are filed by Miami-Dade County (the “County”) in response to the Further Notice of Proposal Rulemaking, released March 5, 2007, in the above-captioned rulemaking (“Further Notice”). As a LFA with over 25 years of experience, the County has found that negotiated customer service standards are a great benefit to consumers and provide a quality of service to the community. The County has found that these negotiated customer service standards have been a great asset in furthering legitimate policy objectives. Additional federal restraints on negotiated customer protections that serve our constituents will have the deleterious effect of eliminating many of the needed protections afforded to Cable subscribers by their elected officials and will improperly trample on state’s rights. These comments are therefore filed to provide the Commission with examples of the actual negotiated consumer protections of the County so that it may base its final conclusion in the Order on facts rather than suppositions.

I. Customer Service Regulations in Miami-Dade County

As a political subdivision of the State of Florida with a population of 2,379,000, the County has had significant experience in local franchising issues. The first non-exclusive cable franchise issued by the County was in 1978. Since that time, the County has granted every franchise with enhanced customer service standards. Currently, Miami-Dade County has twelve (12) franchises issued to four (4) cable providers.

II. Miami-Dade County’s Cable Ordinance

The County's current cable franchising ordinance, codified in Chapter 8AA of the Code of Miami-Dade County (the "Ordinance"), was enacted in 1990. The Ordinance encourages the provision of diverse information to the community over cable and establishes customer service standards for the regulation and performance of cable systems in the County for all cable television franchises.

The Ordinance is purposely comprehensive to ensure that a level playing field exists for all current and future cable providers. The Ordinance addresses many of the items that have traditionally been the subject of individual franchisee negotiations in order to ensure uniform applicability to all cable providers.

III. Miami-Dade County Provides Needed Consumer Protections to its Constituents

Since the enactment of the Telecommunications Act of 1996, the County has received over 234,000 local cable related calls, documented and handled over 13,000 cable television complaints and assisted consumers in getting approximately \$293,000 in credits. Comments and complaints received from the public are reviewed to determine which areas of customer service need addressing.

The County employs a Licensing Administrator and a field Enforcement Officer who follow up on the above mentioned complaints. The County has worked with local franchisees to resolve most complaints within seven days of receipt and provide customers with a 20% credit on their monthly bill for each day the customer is without service on any one channel.

Miami-Dade County has worked with franchisees to standardize channel lineups throughout the County. Working with local franchisees has also enabled Miami-Dade County to get local cable television systems upgraded to State-of-the-Art technologies to address local needs for services like High Definition, Video-on-Demand, and High Speed Internet. The County's cable staff ensures that property owners are notified of construction activities in their neighborhoods prior to excavations and construction activities usually via the placement of "door hangers".

The County is in a unique location in that it has a potential to get hit by numerous hurricanes each year, affecting both lives and property. The County works with local franchisees to ensure that vital news and information can be transmitted over cable systems by ensuring that local franchisees have resources in place prior to each hurricane season to restore services as soon as possible. For example, the County has provided authorization for Comcast, the County's largest cable franchisee, to have access to the Emergency Operations Center during and after hurricanes to address local critical needs and have direct access to other local utilities. Franchisees are required to provide the County Manager with the capability to remotely override the audio or insert video messages over all channels on their cable systems during emergency periods. To assist local operators with post-disaster repairs, the County has "force majeure" language in

the Ordinance to address issues regarding credit to local consumers for outages and franchisees concerns relating to the loss of their customer bases due to hurricanes.

Franchisees are also required to provide broad categories of programming addressing the unique needs of the diverse communities of the County. These categories include programming representative of the numerous languages and cultures that exist throughout the County. For example, Miami-Dade County has more Spanish language channels than any major metropolitan area in the country.

IV. The Commission Should Avoid Enacting Unnecessary Regulations that Will Decrease the Valuable Protections and Services that LFA's offer their Constituents

In regards to the Commission's Further Notice of Proposed Rulemaking ("FNPRM") the County respectfully submits that at least in its own experience, the authority of LFA's to negotiate customer service standards that exceed the Commission's standards benefit the local community, and that any additional regulations limiting the authority of the LFA will trample on localism and prevent local authorities from ensuring the protections and benefits that all cable subscribers have long enjoyed.

The County believes that cable customer service standards are inherently a local issue. Local jurisdictions are best equipped to deal with issues as they arise in providing cable services. For example, as previously stated, the County has acted as a mediator for more than 10,700 complaints between consumers and cable providers. As an impartial mediator, the County ensures that consumers receive the services they are paying for and assists cable providers in dealing with frivolous complaints. The County also ensures that the cable providers are protected from cable theft by enforcing federal law and assists cable operators in gaining access to private easements for cable related activities.

Miami-Dade County believes that local authorities should be the ones to consider whether customer service standards would really best serve that market's competition needs rather than a one-size-fits-all solution necessitated by federal regulations. In either case, the County strongly believes that each local authority must retain the authority to require at least some enhanced customer service standards for the protection of its constituents.

Rather than looking at ways to decrease consumer protections the Commission should be looking at ways to empower localities to further the Commission's stated goals. Rather than reducing the authority of LFAs, the Commission should embrace LFAs authority to ensure that incumbents are providing consumer protections that benefit not only the industry but the community.

The County opposes the Further Notice's tentative conclusion that the findings made in the FCC's March 5, 2007, Order in this proceeding should apply to incumbent cable operators, whether at the time of renewal of those operators' current franchises, or thereafter. This proceeding is based on Section 621(a)(1) of the Communications Act, 47 U.S.C. § 541(a)(1), and the rulings adopted in the Order are specifically, and entirely, directed at "facilitating and expediting entry of new cable competitors into the market for the delivery of video programming, and accelerating broadband deployment".

Miami-Dade disagrees with the rulings in the Order, both on the grounds that the FCC lacks the legal authority to adopt them and on the grounds that those rulings are unnecessary to promote competition, violate the Cable Act's goal

of ensuring that a cable system is “responsive to the needs and interests of the local community,” 47 U.S.C. § 521(2), and are in conflict with several other provisions of the Cable Act. But even assuming, for the sake of argument, that the rulings in the Order are valid, they cannot, and should not, be applied to incumbent cable operators. By its terms, the “unreasonable refusal” provisions of Section 621(a)(1) apply to “additional competitive franchise[s],” not to incumbent cable operators. Those operators are by definition already in the market, and their future franchise terms and conditions are governed by the franchise renewal provisions of Section 626 (47 U.S.C. § 546), and not Section 621(a)(1).

Finally, Miami-Dade County strongly endorses the Further Notice’s tentative conclusion that Section 632(d)(2) (47 U.S.C. § 552(d)(2)) bars the FCC from “preempting state or local customer service laws that exceed the Commission’s standards,” and from “preventing LFAs and cable operators from agreeing to more stringent customer service standards” than the FCC’s. That it is not unreasonable for a local authority, 1) to assure that access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides; 2) Miami-Dade County is concerned that its authority as a local regulator not be decreased, either by FCC rule or by the Florida Legislature, as happened in Texas (as of the date of the filing of these Comments, HB 529 and SB 998 have been filed for the current session of the Florida Legislature which is understood to be Verizon-sponsored Bills which will aim to reduce or eliminate local franchising). Local cable franchising also ensures that our local community’s specific needs are met and that local customers are protected. In light of the foregoing, Miami-Dade County respectfully requests that the Commission not take any action that would interfere with local government authority over consumer protections as set forth under existing federal law with regard to incumbent cable operators, whether at the time of renewal of those operators’ current franchises, or thereafter

Respectfully submitted this 20th day of April, 2007,

Miami-Dade County Florida

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